

1  
2  
3  
4  
5  
6  
7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-431

13 **FRED LEE NORRIS**

14 6778 Valley Drive East  
15 Rudy, AR 72952

**DEFAULT DECISION AND ORDER**

16 Registered Nurse License No. 599052

[Gov. Code, §11520]

17 Respondent.

18  
19 **FINDINGS OF FACT**

20 1. On or about November 27, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs, filed Accusation No. 2013-431 against Fred Lee Norris (Respondent) before  
23 the Board of Registered Nursing. (Accusation attached as Exhibit A.)

24 2. On or about May 6, 2002, the Board of Registered Nursing (Board) issued Registered  
25 Nurse License No. 599052 to Respondent. The Registered Nurse License expired on June 30,  
26 2005, and has not been renewed.  
27  
28

1           3.     On or about November 27, 2012, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 2013-431, Statement to Respondent, Notice of Defense,  
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.  
6 Respondent's address of record was and is:

7     6778 Valley Drive East  
8     Rudy, AR 72952.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     On or about December 11, 2012, the First Class Mail was returned to the Board  
13 labeled "Return to Sender Unable to Forward." On or about December 7, 2012, the Certified  
14 Mail was returned to the Board labeled "Return to Sender Unable to Forward."

15           6.     Government Code section 11506 states, in pertinent part:

16                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
18 of the accusation not expressly admitted. Failure to file a notice of defense shall  
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
20 may nevertheless grant a hearing.

21           7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
23 2013-431.

24           8.     California Government Code section 11520 states, in pertinent part:

25                 (a) If the respondent either fails to file a notice of defense or to appear at the  
26 hearing, the agency may take action based upon the respondent's express admissions  
27 or upon other evidence and affidavits may be used as evidence without any notice to  
28 respondent.

          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
2 file at the Board's offices regarding the allegations contained in Accusation No. 2013-431, finds  
3 that the charges and allegations in Accusation No. 2013-431, are separately and severally, found  
4 to be true and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement is \$612.50 as of January 4, 2013.

### 8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Fred Lee Norris has subjected  
10 his Registered Nurse License No. 599052 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
13 Nurse License based upon the following violations alleged in the Accusation which are supported  
14 by the evidence contained in the Default Decision Evidence Packet in this case.:

15 a. Respondent is subject to disciplinary action in that on or about on or about February  
16 12, 2009, the Arkansas State Board of Nursing ("Arkansas Board") disciplined Respondent's  
17 license to practice nursing in that state in violation of section 2761, subdivision (a)(4) of the  
18 Code. Specifically, the Arkansas Board accepted the voluntary surrender of Respondent's  
19 registered nurse license pursuant to an Order of Voluntary Surrender ("Order").

20 b. Respondent is subject to disciplinary action in that on or about May 27, 2010, the  
21 Oklahoma Board of Nursing ("Oklahoma Board") disciplined Respondent's license to practice  
22 nursing in that state in violation of section 2761, subdivision (a)(4) of the Code. Specifically, the  
23 Oklahoma Board issued a Consent Order signed by both Respondent and the Oklahoma Board,  
24 accepting the voluntary surrender of Respondent's license to practice registered nursing in that  
25 state. The circumstances underlying the disciplinary action by the Oklahoma Board are that on or  
26 about June 23, 2008, information was filed in Crawford County Circuit Court, State of Arkansas,  
27 Case No. CR-2008-285, charging Respondent with Possession of Morphine with Intent to Deliver  
28 and Simultaneous Possession of Drugs and Firearms, both class Y felonies. On or about

December 16, 2008, Respondent pled guilty to an amended count of Possession of Morphine, a class C felony and was sentenced to a 3 year suspended sentence. The disciplinary action was also based upon the disciplinary action by the Arkansas Board.

c. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code on the grounds of unprofessional conduct in that Respondent possessed Morphine. The possession is described in more particularity in Accusation No. 2013-431, hereby incorporated by reference.

d. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code as defined in section 2762, subdivision (a) of the Code in on the grounds of unprofessional conduct in that Respondent possessed Morphine, a schedule II controlled substance, narcotic and dangerous drug. The possession is described in more particularity in Accusation No. 2013-431, hereby incorporated by reference.

e. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the Code in that Respondent violated provisions of the Nursing Practice Act. The violations are described in more particularity in Accusation No. 2013-431, hereby incorporated by reference.

///

///

///

///

///

///

///

///

///

///

///

///

///

**ORDER**

IT IS SO ORDERED that Registered Nurse License No. 599052, heretofore issued to Respondent Fred Lee Norris, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 2, 2013.

It is so ORDERED APRIL 2, 2013.

  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

51216111.DOC  
DOJ Matter ID:LA2012508130

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2013-431

11 **FRED LEE NORRIS**

12 6778 Valley Drive East  
13 Rudy, AR 72952

**A C C U S A T I O N**

14 Registered Nurse License No. 599052

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about May 6, 2002, the Board of Registered Nursing issued Registered Nurse  
23 License Number 599052 to Fred Lee Norris ("Respondent"). The Registered Nurse License  
24 expired on June 30, 2005, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1           4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4           5.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
5 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
6 disciplinary action during the period within which the license may be renewed, restored, reissued  
7 or reinstated.

8           6.     Section 2764 of the Code also provides, in pertinent part, that the expiration of a  
9 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
10 against the licensee or to render a decision imposing discipline on the license. Section 2811(b) of  
11 the Code provides, in pertinent part, that the Board may renew an expired license at any time  
12 within eight years after the expiration.

13           7.     California Code of Regulations, title 16, section 1419.3 provides:

14                    “In the event a licensee does not renew his/her license as provided in  
15 Section 2811 of the code, the license expires. A licensee renewing pursuant to this  
16 section shall furnish a full set of fingerprints as required by and set out in section  
1419(b) as a condition of renewal.

17                   (a) A licensee may renew a license that has not been expired for more  
18 than eight years by paying the renewal and penalty fees as specified in Section 1417  
and providing evidence of 30 hours of continuing education taken within the prior  
two-year period.

19                   (b) A licensee may renew a license that has been expired for more than  
20 eight years by paying the renewal and penalty fees specified in Section 1417 and  
21 providing evidence that he or she holds a current valid active and clear registered  
nurse license in another state, a United States territory, or Canada, or by passing the  
Board's current examination for licensure.”

22           8.     Section 2761 of the Code states, in pertinent part:

23                    “The board may take disciplinary action against a certified or licensed  
24 nurse or deny an application for a certificate or license for any of the following:

25                   (a) Unprofessional conduct, which includes, but is not limited to, the  
26 following:

26                    ...

27                   (4) Denial of licensure, revocation, suspension, restriction, or any other  
28 disciplinary action against a health care professional license or certificate by another  
state or territory of the United States, by any other government agency, or by another



California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

...

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

9. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022."

#### **DRUG DEFINITIONS**

10. Morphine is a schedule II controlled substance and narcotic pursuant to Health and Safety Code section 11055 and is a dangerous drug pursuant to section 4022 of the Code.

#### **COST RECOVERY**

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Disciplinary Action by Other Jurisdiction)**

12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code in that Respondent was Disciplined by the Arkansas State Board of Nursing ("Arkansas Board") and the Oklahoma Board of Nursing ("Oklahoma Board") as follows:

13. On or about February 12, 2009, the Arkansas Board accepted the voluntary surrender of Respondent's registered nurse license pursuant to an Order of Voluntary Surrender ("Order"). The Order makes clear that a written request and appropriate documentation must be submitted

1 for consideration of reinstatement. Additionally, the Order provides that, among other things,  
2 appropriate documentation will include a current addictive behavior evaluation or an evaluation  
3 and a certificate of completion from an inpatient or outpatient treatment center; a statement  
4 indicating the Respondent's clean and sober date; a letter from Respondent's sponsor.

5 14. On or about May 27, 2010, the Oklahoma Board issued a Consent Order signed by  
6 both Respondent and the Oklahoma Board, accepting the voluntary surrender of Respondent's  
7 license to practice registered nursing in that state and detailing the conditions upon which  
8 Respondent can reapply to the Oklahoma Board in the disciplinary matter entitled *In the Matter of*  
9 *Fred Lee Norris, R.N. License No. R0082378*. The circumstances underlying the disciplinary  
10 action by the Oklahoma Board are that on or about June 23, 2008, information was filed in  
11 Crawford County Circuit Court, State of Arkansas, Case No. CR-2008-285, charging Respondent  
12 with Possession of Morphine with Intent to Deliver and Simultaneous Possession of Drugs and  
13 Firearms, both class Y felonies. On or about December 16, 2008, Respondent pled guilty to an  
14 amended count of Possession of Morphine, a class C felony and was sentenced to a 3 year  
15 suspended sentence. The disciplinary action was also based upon the disciplinary action by the  
16 Arkansas Board.

## 17 **SECOND CAUSE FOR DISCIPLINE**

### 18 **(Unprofessional Conduct)**

19 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
20 Code on the grounds of unprofessional conduct in that Respondent possessed Morphine. The  
21 possession is described in more particularity in paragraph 14 above, inclusive and hereby  
22 incorporated by reference.

## 23 **THIRD CAUSE FOR DISCIPLINE**

### 24 **(Drug Related Transgressions)**

25 16. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
26 Code as defined in section 2762, subdivision (a) of the Code in on the grounds of unprofessional  
27 conduct in that Respondent possessed Morphine, a schedule II controlled substance, narcotic and  
28

1 dangerous drug. The possession is described in more particularity in paragraph 14 above,  
2 inclusive and hereby incorporated by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Violation of Nursing Practice Act)**


5 17. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the  
6 Code in that Respondent violated provisions of the Nursing Practice Act. The violations are  
7 described in more particularity in paragraphs 12 through 16 above, inclusive and hereby  
8 incorporated by reference.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 599052, issued to Fred  
13 Lee Norris;
- 14 2. Ordering Fred Lee Norris to pay the Board of Registered Nursing the reasonable costs  
15 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
16 section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18  
19

20 DATED: November 27, 2012

21 *fr*   
22 LOUISE R. BAILEY, M.ED., RN  
23 Executive Officer  
24 Board of Registered Nursing  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
28

25 LA2012508130  
26 51193118.doc